

Senate Bill No. 1300

CHAPTER 729

An act to amend Sections 39607, 39607.5, 40002, 40100.5, 40709, 40714.5, 40727.2, 40728.5, 40910, 40914, 40925, 40980, 41954, and 44287 of, and to add Section 40962.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 25, 2000. Filed
with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1300, Sher. Air pollution.

(1) Existing law requires the State Air Resources Board to inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants, including the contribution of natural sources, as specified.

This bill would require the inventory to also include the contribution of mobile sources and area sources of emissions, as specified.

(2) Existing law required the state board, not later than June 30, 1997, to develop, and adopt in a public hearing, a methodology for use by air pollution control districts and air quality management districts to calculate the value of credits issued for emission reductions from stationary, mobile, indirect, and areawide sources, as provided. Existing law requires the state board to periodically update the methodology as it applies to future transactions.

This bill would also require the state board to periodically review each district's emission reduction and credit trading programs to ensure that the programs comply with the methodology. The bill would require the state board to annually prepare and submit a report to the Legislature and the Governor that summarizes the actions taken by the state board to implement those provisions.

(3) Existing law provides for the establishment of county air pollution control districts, and requires that a county district be established in every county, unless the entire county is included within the Antelope Valley Air Quality Management District, the Bay Area Air Quality Management District, the Mojave Desert Air Quality Management District, the South Coast Air Quality Management District, the San Joaquin Valley Air Quality Management District, if that district is created, a regional district, or a unified district.

This bill would add the Sacramento Metropolitan Air Quality Management District to the list of districts set forth above.

(4) Existing law establishes procedures for the selection of members of the governing boards of county air pollution control districts. Existing law requires that the members of the governing boards who are mayors or city council members be selected by the city selection committee and that the members of governing boards who are county supervisors be selected by the county.

This bill would further require that, in a county district where the county and cities have agreed that each city shall be represented on the board, each city shall select its own representative.

(5) Existing law requires every district board to establish a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

This bill would exempt any district from that requirement that is not required to prepare and submit a plan for the attainment of state ambient air quality standards if specified conditions apply to that district. The bill would also exempt those districts from a requirement that a district grant emission reduction credits without any discount or reduction in the quantity of the emissions reduced at the source.

(6) Existing law requires a district to prepare a written analysis in making prescribed findings. Existing law authorizes a district to comply with the requirement for an analysis by preparing an alternative analysis demonstrating that the proposed new or amended rule or regulation does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements, or that the proposed new or amended rule or regulation is a verbatim adoption or incorporation by reference of a prescribed standard or measure.

This bill, instead, would authorize a district to comply with the requirement for an analysis by finding that the proposed new or amended rule or regulation falls within one of the categories specified above.

(7) Existing law requires that, whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, the district, to the extent data are available, shall perform an assessment of the socioeconomic impacts, as defined, of the adoption, amendment, or repeal of the rule or regulation.

This bill would provide that, to the extent that information on the socioeconomic impact of a regulation is required to be developed by a district pursuant to other specified law, that information may be used or referenced in the assessment.

(8) Existing law requires reductions in emissions to be calculated with respect to the actual level of emissions that existed in each

district during 1990, as determined by the state board. Existing law also required reductions in emissions occurring after December 31, 1990, including, but not limited to, reductions in emissions resulting from measures adopted prior to December 31, 1990, to be included in this calculation.

This bill would limit the scope of this provision to each district that is designated nonattainment for a state ambient air quality standard but is designated attainment for the federal air quality standard for the same pollutant. The bill would also specify the procedure for calculating reductions in emissions for each district that is designated nonattainment for both state and federal ambient air quality standards for a single pollutant.

(9) Existing law requires a district to review and revise its attainment plan every 3 years to, among other things, incorporate specified new data or projections into the plan relating to emission reductions.

This bill would revise and expand the data and projection requirements, as provided. Because this provision would add to the duties of air pollution control districts, it would constitute a state-mandated local program.

(10) Existing law establishes a procedure for the selection of the membership of the governing board of the Sacramento Metropolitan Air Quality Management District.

This bill would add to that procedure provisions relating to appointments to the governing board to represent a single city within the district. The bill would also provide that specified provisions relating to the appointment and compensation of officers and employees of county districts shall not be applicable to the Sacramento district.

(11) Existing law requires the state board to adopt additional performance standards to ensure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline liquid spillage when used in a proper manner. Existing law also requires the state board to adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, as specified, and provides for the certification of gasoline vapor control systems that meet prescribed requirements.

This bill would additionally provide that the state board shall adopt performance standards to prevent excessive evaporative emissions from liquid retained in the dispensing nozzle or vapor return hose between refueling events, and certify only those gasoline vapor control systems that meet specified requirements.

(12) The existing Carl Moyer Memorial Air Standards Attainment Program authorizes the state board to make grants for the purchase of low-emission, heavy-duty engines for vehicles, equipment, vessels, and locomotives. Existing law allows the administration of the

program to be delegated to air pollution control districts and air quality management districts, and requires the state board to reserve funds for any district that adopts an eligible program, and that offers matching funds at a specified ratio.

This bill would allow the state board to adjust the ratio of matching funds required from a district, if it determines that an adjustment is necessary in order to maximize the use of, or the air quality benefits provided by, the program.

(13) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandate, this bill would provide that, if the commission on state mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to those statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 39607 of the Health and Safety Code is amended to read:

39607. The state board shall:

(a) Establish a program to secure data on air quality in each air basin established by the state board.

(b) Inventory sources of air pollution within the air basins of the state and determine the kinds and quantity of air pollutants, including, but not necessarily limited to, the contribution of natural sources, mobile sources, and area sources of emissions, including a separate identification of those sources not subject to district permit requirements, to the extent feasible and necessary to carry out the purposes of this chapter. The state board shall use, to the fullest extent, the data of local agencies and other state and federal agencies in fulfilling this purpose.

(c) Monitor air pollutants in cooperation with districts and with other agencies to fulfill the purpose of this division.

(d) Adopt test procedures to measure compliance with its nonvehicular emission standards and those of districts.

(e) Establish and periodically review criteria for designating an air basin attainment or nonattainment for any state ambient air quality standard set forth in Section 70200 of Title 17 of the California Code of Regulations. In developing and reviewing these criteria, the state board shall consider instances where there is poor or limited

ambient air quality data, and shall consider highly irregular or infrequent violations. The state board shall provide an opportunity for public comment on the proposed criteria, and shall adopt the criteria after a public hearing.

(f) Evaluate, in consultation with the districts and other interested parties, air quality-related indicators which may be used to measure or estimate progress in the attainment of state standards and establish a list of approved indicators. On or before July 1, 1993, the state board shall identify one or more air quality indicators to be used by districts in assessing progress as required by subdivision (b) of Section 40924. The state board shall continue to evaluate the prospective application of air quality indicators and, upon a finding that adequate air quality modeling capability exists, shall identify one or more indicators which may be used by districts in lieu of the annual emission reductions mandated by subdivision (a) of Section 40914. In no case shall any indicator be less stringent or less protective, on the basis of overall health protection, than the annual emission reduction requirement in subdivision (a) of Section 40914.

(g) Establish, not later than July 1, 1996, a uniform methodology which may be used by districts in assessing population exposure, including, but not limited to, reduction in exposure of districtwide subpopulations such as children, the elderly, and persons with respiratory disease, to ambient air pollutants at levels above the state ambient air quality standards, for estimating reductions in population exposure for the purposes of Sections 40913, 40924, and 41503, and for the establishment of the means by which reductions in population exposures may be achieved. The methodology adopted pursuant to this subdivision shall be consistent with the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), and with this division, including, but not limited to, Section 39610.

SEC. 2. Section 39607.5 of the Health and Safety Code is amended to read:

39607.5. (a) The state board shall develop, and adopt in a public hearing a methodology for use by districts to calculate the value of credits issued for emission reductions from stationary, mobile, indirect, and areawide sources, including those issued under market-based incentive programs, when those credits are used interchangeably.

(b) In developing the methodology, the state board shall do all of the following:

(1) Ensure that the methodology results in the maintenance and improvement of air quality consistent with this division.

(2) Allow those credits to be used in a market-based incentive program adopted pursuant to Section 39616 that requires annual reductions in emissions through declining annual allocations, and allow the use of all of those credits, including those from a



market-based incentive program, to meet other stationary or mobile source requirements that do not expressly prohibit that use.

(3) Ensure that the methodology does not do any of the following:

(A) Result in the crediting of air emissions that already have been identified as emission reductions necessary to achieve state and federal ambient air quality standards.

(B) Provide for an additional discount of credits solely as a result of emission reduction credits trading if a district already has discounted the credit as part of its process of identifying and granting those credits to sources.

(C) Otherwise provide for double-counting emission reductions.

(4) Consult with, and consider the suggestions of, the public and all interested parties, including, but not limited to, the California Air Pollution Control Officers Association and all affected regulated entities.

(5) Ensure that any credits, whether they are derived from stationary, mobile, indirect, or areawide sources, shall be permanent, enforceable, quantifiable, and surplus.

(6) Ensure that any credits derived from a market-based incentive program adopted pursuant to Section 39616 are permanent, enforceable, quantifiable, and are in addition to any required controls, unless those credits otherwise comply with paragraph (2).

(7) Consider all of the following factors:

(A) How long credits should be valid.

(B) Whether, and which, banking opportunities may exist for credits.

(C) How to provide flexibility to sources seeking to use credits so that they remain interchangeable and negotiable until used.

(D) How to ensure a viable trading process for sources wishing to trade credits consistent with this section.

(E) How to ensure that, if credits may be used within and between adjacent districts or air basins where sources are in proximity to one another, the use occurs while maintaining and improving air quality in both districts or air basins.

(c) If necessary, the state board shall periodically update the methodology as it applies to future transactions.

(d) The state board shall periodically review each district's emission reduction and credit trading programs to ensure that the programs comply with the methodology developed pursuant to this section.

(e) The state board shall annually prepare and submit a report to the Legislature and the Governor that summarizes the actions taken by the state board to implement this section.

SEC. 3. Section 40002 of the Health and Safety Code is amended to read:

40002. (a) There is continued in existence and shall be, in every county, a county district, unless the entire county is included within the Antelope Valley district, the bay district, the Mojave Desert district, the south coast district, the Sacramento Metropolitan Air Quality Management District, the San Joaquin Valley Air Quality Management District, if that district is created, a regional district, or a unified district.

(b) If only a part of the county is included within the Antelope Valley district, the bay district, the south coast district, the Mojave Desert district, the San Joaquin Valley Air Quality Management District, if that district is created, a regional district, or a unified district, there is in that part of the county not included within any of those districts a county district, for which different air quality rules and regulations may be required.

SEC. 4. Section 40100.5 of the Health and Safety Code is amended to read:

40100.5. (a) The membership of the governing board of each county district shall include (1) one or more members who are mayors, city council members, or both, and (2) one or more members who are county supervisors.

(b) The number of those members and their composition shall be determined jointly by the county and the cities within the district, and shall be approved by the county, and by a majority of the cities which contain a majority of the population in the incorporated area of the district.

(c) The governing board shall reflect, to the extent feasible and practicable, the geographic diversity of the district and the variation of population between the cities in the district.

(d) The members of the governing board who are mayors or city council members shall be selected by the city selection committee. In districts where the county and the cities have agreed that each city shall be represented on the governing board, each city shall select its own representative to the governing board. The members of the governing board who are county supervisors shall be selected by the county.

(e) This section does not apply to any district in which the population of the incorporated area of the county is 35 percent or less of the total county population, as determined by the district on June 30, 1994, or to a county district having a population of more than 2,500,000 as of June 30, 1990.

(f) If a district fails to comply with subdivisions (a) and (b), the membership of the governing board shall be determined as follows:

(1) In districts in which the population in the incorporated areas represents between 36 and 50 percent of the total county population, one-third of the members of the governing board shall be mayors or city council members, and two-thirds shall be county supervisors.

(2) In districts in which the population in the incorporated areas represents more than 50 percent of the total county population, one-half of the members of the governing board shall be mayors or city council members, and one-half shall be county supervisors.

(3) The number of those members shall be determined as provided in subdivision (b), and the members shall be selected pursuant to subdivision (d).

(4) For purposes of paragraphs (1) and (2), if any number which is not a whole number results from the application of the term “one-third,” “one-half,” or “two-thirds,” the number of county supervisors shall be increased to the nearest integer, and the number of mayors or city council members decreased to the nearest integer.

SEC. 5. Section 40709 of the Health and Safety Code is amended to read:

40709. (a) Every district board shall establish by regulation a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions. The system shall provide that only those reductions in the emission of air contaminants that are not otherwise required by any federal, state, or district law, rule, order, permit, or regulation shall be registered, certified, or otherwise approved by the district air pollution control officer before they may be banked and used to offset future increases in the emission of air contaminants. The system shall be subject to disapproval by the state board pursuant to Chapter 1 (commencing with Section 41500) of Part 4 within 60 days after adoption by the district.

(b) The system is not intended to recognize any preexisting right to emit air contaminants, but to provide a mechanism for districts to recognize the existence of reductions of air contaminants that can be used as offsets, and to provide greater certainty that the offsets shall be available for emitting industries.

(c) Notwithstanding subdivision (a), emissions reductions proposed to offset simultaneous emissions increases within the same stationary source need not be banked prior to use as offsets, if those reductions satisfy all criteria established by regulation pursuant to subdivision (a).

(d) This section does not apply to any district that is not required to prepare and submit a plan for attainment of state ambient air quality standards pursuant to Section 40911 if both of the following apply to the district:

(1) The district is not in a federal nonattainment area for any national ambient air quality standard unless the sole reason for the nonattainment is due to air pollutant transport.

(2) An owner or operator of a source or proposed source has not petitioned the district to establish a banking system.

SEC. 6. Section 40714.5 of the Health and Safety Code is amended to read:

40714.5. (a) The Legislature hereby finds and declares all of the following:

(1) Because of policy considerations, certain sources of air pollution are exempt from district permitting requirements or are not otherwise controlled by districts.

(2) Emissions from some of these sources can be reduced through cost-effective measures, thereby creating additional emission reduction credits.

(3) An increased supply of emission reduction credits is beneficial to local economies.

(4) The purpose of this section is to provide an incentive to generate additional and fully valued emission reduction credits by encouraging emission reductions from these sources without subjecting them to a district permitting process.

(b) (1) With respect to any emission reduction that occurs on or after January 1, 1991, at a source that was and remains exempt from district rules and regulations, the district shall grant emission reduction credits or marketable trading credits without any discount or reduction in the quantity of the emissions reduced at the source unless otherwise provided by law. Emission reduction credits or marketable trading credits issued by the district for those exempt sources may be reduced only when applied to the permitting of other stationary sources as a result of new source review, or in accordance with any applicable requirement of a marketable trading credit program.

(2) Any credits issued by a district pursuant to this subdivision shall meet all of the requirements of state and federal law, including, but not limited to, all of the following requirements:

(A) The credits shall not result in the crediting of air emissions which are already contemporaneously required by an emission control measure in a plan necessary to achieve state and federal ambient air standards.

(B) The credits shall not provide for an additional discount of credits solely as a result of emission reduction credits trading if a district has already discounted the credit as part of its process of identifying and granting those credits to sources.

(C) The credits shall not, in any manner, result in double-counting of emission reductions.

(D) The credits shall be permanent, enforceable, quantifiable, and surplus.

(3) This subdivision applies statewide in any area not otherwise excluded under subdivision (d) of Section 40709.

SEC. 7. Section 40727.2 of the Health and Safety Code is amended to read:

40727.2. (a) In complying with Section 40727, the district shall prepare a written analysis as required by this section. In the analysis, the district shall identify all existing federal air pollution control requirements, including, but not limited to, emission control standards constituting best available control technology for new or modified equipment, that apply to the same equipment or source type as the rule or regulation proposed for adoption or modification by the district. The analysis shall also identify any of that district's existing or proposed rules and regulations that apply to the same equipment or source type, and all air pollution control requirements and guidelines that apply to the same equipment or source type and of which the district has been informed pursuant to subdivision (b). The analysis shall be in a format that minimizes paperwork and, at the option of the district, may be in matrix form.

(b) Within 60 days from the date of a district's publication, pursuant to Section 40923, of the list of regulatory measures proposed for adoption in the following year, any person may inform the district of any existing federal or state air pollution control requirement or guideline or proposed or existing district air pollution control requirement or guideline that applies to the same type of source or equipment in that district as any proposed new or amended district rule or regulation on that district's list of regulatory measures. If any person informs the district of any requirement or guideline that does not apply to the same type of source or equipment, the district shall notify the person to that effect and shall not be required to review that requirement or guideline.

(c) The analysis prepared pursuant to subdivision (a) shall compare the elements of each of the identified air pollution control requirements to the corresponding element or elements of the district's proposed new or amended rule or regulation.

(d) Air pollution control requirement elements to be reviewed pursuant to subdivision (c) are all of the following:

(1) Averaging provisions, units, and any other pertinent provisions associated with emission limits.

(2) Operating parameters and work practice requirements.

(3) Monitoring, reporting, and recordkeeping requirements, including test methods, format, content, and frequency.

(4) Any other element that the district determines warrants review.

(e) If one or more elements of a district's proposed new or amended rule or regulation differs from corresponding elements of any existing air pollution control requirement or guideline applicable to the same equipment or source type, the analysis prepared pursuant to subdivision (a) shall note the difference or differences.

(f) The public hearing notice given to the state board pursuant to subdivision (b) of Section 40725, and any notice mailed to interested persons, shall include a statement indicating that the analysis

required by this section has been prepared, and shall provide the name, address, and telephone number of a district officer from whom copies may be requested. The analysis required by this section shall be provided to the public upon request.

(g) If a district's proposed new or amended rule or regulation does not impose a new emission limit or standard, make an existing emission limit or standard more stringent, or impose new or more stringent monitoring, reporting, or recordkeeping requirements, or if the proposed new or amended rule or regulation is a verbatim adoption or incorporation by reference of a federal New Source Performance Standard adopted pursuant to Section 111 of the federal Clean Air Act (42 U.S.C. Sec. 7411) or an airborne toxic control measure established by the state board pursuant to Section 39658, a district may elect to comply with subdivision (a) by finding that the proposed new or amended rule or regulation falls within one or more of the categories specified in this subdivision.

(h) Nothing in this section limits the existing authority of districts to determine the form, content, and stringency of their rules and regulations. In implementing this section, it is the intent of the Legislature that the districts retain their existing authority and flexibility to tailor their air pollution emission control requirements to local circumstances.

(i) For purposes of this section, a district rule or regulation shall be considered "proposed" if the rule or regulation has been made available to the general public in connection with a request for comments.

(j) To the extent that the district board determines that there are additional costs imposed by this section, the district board shall recover those additional costs through the imposition of fees on regulated entities.

SEC. 8. Section 40728.5 of the Health and Safety Code is amended to read:

40728.5. (a) Whenever a district intends to propose the adoption, amendment, or repeal of a rule or regulation that will significantly affect air quality or emissions limitations, that agency shall, to the extent data are available, perform an assessment of the socioeconomic impacts of the adoption, amendment, or repeal of the rule or regulation. The district board shall actively consider the socioeconomic impact of regulations and make a good faith effort to minimize adverse socioeconomic impacts, as defined below. This section does not apply to the adoption, amendment, or repeal of any rule or regulation that results in any less restrictive emissions limit if the action does not interfere with the district's adopted plan to attain ambient air quality standards, or does not result in any significant increase in emissions.

(b) For purposes of this section, "socioeconomic impact" means the following:



(1) The type of industries or business, including small business, affected by the rule or regulation.

(2) The impact of the rule or regulation on employment and the economy of the region affected by the adoption of the rule or regulation.

(3) The range of probable costs, including costs to industry or business, including small business, of the rule or regulation.

(4) The availability and cost-effectiveness of alternatives to the rule or regulation being proposed or amended.

(5) The emission reduction potential of the rule or regulation.

(6) The necessity of adopting, amending, or repealing the rule or regulation to attain state and federal ambient air standards pursuant to Chapter 10 (commencing with Section 40910).

(c) To the extent that information on the socioeconomic impact of a regulation is required to be developed by a district pursuant to other provisions of this division, that information may be used or referenced in the assessment in order to comply with the requirements of this section.

(d) This section does not apply to any district with a population of less than 500,000 persons.

(e) Upon the approval by a majority vote of the district board, a county district is not required to include the analysis specified in paragraphs (2) and (4) of subdivision (b) in any assessment of socioeconomic impacts for any rule or regulation that only adopts a requirement that is substantially similar to, or is required by, a state or federal statute, regulation, or applicable formal guidance document. Examples of state or federal formal guidance documents include, but are not limited to, federal Control Techniques Guidelines, state and federal reasonably available control technology determinations, state best available retrofit control technology determinations, and state air toxic control measures.

SEC. 9. Section 40910 of the Health and Safety Code is amended to read:

40910. It is the intent of the Legislature in enacting this chapter that districts shall endeavor to achieve and maintain state ambient air quality standards for ozone, carbon monoxide, sulfur dioxide, and nitrogen dioxide by the earliest practicable date. In developing attainment plans and regulations to achieve this objective, districts shall consider the full spectrum of emission sources and focus particular attention on reducing the emissions from transportation and areawide emission sources. Districts shall also consider the cost-effectiveness of their air quality programs, rules, regulations, and enforcement practices in addition to other relevant factors, and shall strive to achieve the most efficient methods of air pollution control. However, priority shall be placed upon expeditious progress toward the goal of healthful air. It is also the intent of the Legislature that redundant work shall be avoided.

SEC. 10. Section 40914 of the Health and Safety Code is amended to read:

40914. (a) Each district plan shall be designed to achieve a reduction in districtwide emissions of 5 percent or more per year for each nonattainment pollutant or its precursors, averaged every consecutive three-year period, unless an alternative measure of progress is approved pursuant to Section 39607.

(b) A district may use an alternative emission reduction strategy which achieves less than an average of 5 percent per year reduction in districtwide emissions if the district demonstrates to the state board, and the state board concurs in, either of the following:

(1) That the alternative emission reduction strategy is equal to or more effective than districtwide emission reductions in improving air quality.

(2) That despite the inclusion of every feasible measure in the plan, and an expeditious adoption schedule, the district is unable to achieve at least a 5-percent annual reduction in districtwide emissions.

(c) For purposes of this section and Section 41503.1, for each district that is designated nonattainment for a state ambient air quality standard but is designated attainment for the federal air quality standard for the same pollutant, reductions in emissions shall be calculated with respect to the actual level of emissions that exist in each district during 1990, as determined by the state board. All reductions in emissions occurring after December 31, 1990, including, but not limited to, reductions in emissions resulting from measures adopted prior to December 31, 1990, shall be included in this calculation. For each district that is designated nonattainment for both state and federal ambient air quality standards for a single pollutant, reductions in emissions shall be calculated with respect to the actual level of emissions that exist in each district during the baseline year used in the state implementation plan required by the federal Clean Air Act. All reductions in emissions occurring after December 31 of the baseline year, including, but not necessarily limited to, reductions in emissions resulting from measures adopted prior to December 31 of the baseline year, shall be included in this calculation.

SEC. 11. Section 40925 of the Health and Safety Code is amended to read:

40925. (a) On or before December 31, 1994, and at least once every three years thereafter, every district shall review and revise its attainment plan to correct for deficiencies in meeting the interim measures of progress incorporated into the plan pursuant to Section 40914, and to incorporate new data or projections into the plan, including, but not limited to, the quantity of emission reductions expected from the control measures adopted in the preceding three-year period and the dates that those emission reductions will

be achieved, and the rates of population-related, industry-related, and vehicle-related emissions growth actually experienced in the district and projected for the future. This data shall be compared to the rate of emission reductions and growth projected in the previous triennial plan revision. Upon adoption of each triennial plan revision at a public hearing, the district board shall submit the revision to the state board.

(b) A district may modify the emission reduction strategy or alternative measure of progress for subsequent years based on this assessment if the district demonstrates to the state board, and the state board finds, that the modified strategy is at least as effective in improving air quality as the strategy which is being replaced.

(c) Each district which cannot demonstrate attainment by December 31, 1999, shall prepare and submit a comprehensive update of its plan to the state board not later than December 31, 1997, unless the state board determines, by not later than February 1, 1997, that a comprehensive plan update is unnecessary. The revised plan shall include an interim air quality improvement goal or an equivalent emission reduction strategy, subject to review and approval by the state board, to be achieved in the subsequent five-year period.

SEC. 12. Section 40962.5 is added to the Health and Safety Code, to read:

40962.5. Notwithstanding any other provision of law, as of July 1, 1996, Article 2 (commencing with Section 40120) of Chapter 2 shall not be applicable to the Sacramento district.

SEC. 13. Section 40980 of the Health and Safety Code is amended to read:

40980. (a) The Sacramento district shall, at a minimum, be governed by a district board composed of the Board of Supervisors of the County of Sacramento.

(b) If the County of Placer submits a resolution of inclusion, pursuant to Section 40963, one or more elected officials from that county shall be included on the Sacramento district board, pursuant to agreement between that county and the Sacramento district board.

(c) (1) On and after July 1, 1994, the membership of the Sacramento district board shall include (A) one or more members who are mayors or city council members, or both, and (B) one or more members who are county supervisors.

(2) The number of those members and their composition shall be determined jointly by the counties and cities within the district, and shall be approved by a majority of the counties, and by a majority of the cities which contain a majority of the population in the incorporated area of the district.

(d) The governing board shall reflect, to the extent feasible and practicable, the geographic diversity of the district and the variation of population between the cities in the district.

(e) (1) The members of the governing board who are mayors or city council members shall be selected by the city selection committee if the district only contains one county, or a majority of the cities within the district if the district contains more than one county. The members of the governing board who are county supervisors shall be selected by the county if the district only contains one county or a majority of counties within the district if the district contains more than one county.

(2) Subsequent appointments to represent a single city within the district on the Sacramento district board shall be made by the city council of that city at a regularly scheduled city council meeting, consistent with state notice requirements.

(3) The city selection committee shall be convened only if there is to be a change in the board members designated to represent more than one city.

(f) (1) If the district fails to comply with subdivision (c), one-third of the members of the governing board shall be mayors or city council members, and two-thirds shall be county supervisors. The number of those members shall be determined as provided in paragraph (2) of subdivision (c), and the members shall be selected pursuant to subdivision (e).

(2) For purposes of paragraph (1), if any number which is not a whole number results from the application of the term “one-third” or “two-thirds,” the number of county supervisors shall be increased to the nearest integer, and the number of mayors or city council members decreased to the nearest integer.

SEC. 14. Section 41954 of the Health and Safety Code is amended to read:

41954. (a) The state board shall adopt procedures for determining the compliance of any system designed for the control of gasoline vapor emissions during gasoline marketing operations, including storage and transfer operations, with performance standards that are reasonable and necessary to achieve or maintain any applicable ambient air quality standard.

(b) The state board shall, after a public hearing, adopt additional performance standards that are reasonable and necessary to ensure that systems for the control of gasoline vapors resulting from motor vehicle fueling operations do not cause excessive gasoline liquid spillage and excessive evaporative emissions from liquid retained in the dispensing nozzle or vapor return hose between refueling events, when used in a proper manner. To the maximum extent practicable, the additional performance standards shall allow flexibility in the design of gasoline vapor recovery systems and their components.

(c) (1) The state board shall certify, in cooperation with the districts, only those gasoline vapor control systems that it determines will meet the following requirements, if properly installed and maintained:

(A) The systems will meet the requirements of subdivision (a).

(B) With respect to any system designed to control gasoline vapors during vehicle refueling, that system, based on an engineering evaluation of that system's component qualities, design, and test performance, can be expected, with a high degree of certainty, to comply with that system's certification conditions over the warranty period specified by the board.

(C) With respect to any system designed to control gasoline vapors during vehicle refueling, that system shall be compatible with vehicles equipped with onboard refueling vapor recovery (ORVR) systems.

(2) The state board shall enumerate the specifications used for issuing the certification. After a system has been certified, if circumstances beyond the control of the state board cause the system to no longer meet the required specifications or standards, the state board shall revoke or modify the certification.

(d) The state board shall test, or contract for testing, gasoline vapor control systems for the purpose of determining whether those systems may be certified.

(e) The state board shall charge a reasonable fee for certification, not to exceed its actual costs therefor. Payment of the fee shall be a condition of certification.

(f) No person shall offer for sale, sell, or install any new or rebuilt gasoline vapor control system, or any component of the system, unless the system or component has been certified by the state board and is clearly identified by a permanent identification of the certified manufacturer or rebuilder.

(g) (1) Except as authorized by other provisions of law and except as provided in this subdivision, no district may adopt, after July 1, 1995, stricter procedures or performance standards than those adopted by the state board pursuant to subdivision (a), and no district may enforce any of those stricter procedures or performance standards.

(2) Any stricter procedures or performance standards shall not require the retrofitting, removal, or replacement of any existing system, which is installed and operating in compliance with applicable requirements, within four years from the effective date of those procedures or performance standards, except that existing requirements for retrofitting, removal, or replacement of nozzles with nozzles containing vapor-check valves may be enforced commencing July 1, 1998.

(3) Any stricter procedures or performance standards shall not be implemented until at least two systems meeting the stricter performance standards have been certified by the state board.

(4) If the certification of a gasoline vapor control system, or a component thereof, is revoked or modified, no district shall require a currently installed system, or component thereof, to be removed for a period of four years from the date of revocation or modification.

(h) No district shall require the use of test procedures for testing the performance of a gasoline vapor control system unless those test procedures have been adopted by the state board or have been determined by the state board to be equivalent to those adopted by the state board, except that test procedures used by a district prior to January 1, 1996, may continue to be used until January 1, 1998, without state board approval.

(i) With respect to those vapor control systems subject to certification by the state board, there shall be no criminal or civil proceedings commenced or maintained for failure to comply with any statute, rule, or regulation requiring a specified vapor recovery efficiency if the vapor control equipment which has been installed to comply with applicable vapor recovery requirements meets both of the following requirements:

(1) Has been certified by the state board at an efficiency or emission factor required by applicable statutes, rules, or regulations.

(2) Is installed, operated, and maintained in accordance with the requirements set forth in the document certification and the instructions of the equipment manufacturer.

SEC. 15. Section 44287 of the Health and Safety Code is amended to read:

44287. (a) The state board shall establish grant criteria and guidelines consistent with this chapter for covered vehicle projects as soon as practicable, but not later than January 1, 2000. The adoption of guidelines is exempt from the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The state board shall solicit input and comment from the districts during the development of the criteria and guidelines and shall make every effort to develop criteria and guidelines that are compatible with existing district programs that are also consistent with this chapter. Guidelines shall include protocols to calculate project cost-effectiveness. The grant criteria and guidelines shall include safeguards to ensure that the project generates surplus emissions reductions. Guidelines shall enable and encourage districts to cofund projects that provide emissions reductions in more than one district. The state board shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

(b) The state board, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (a) as necessary to improve the ability of the program to achieve its goals. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the state board shall hold at least one public meeting to consider public comments before final adoption of the revision.

(c) The state board shall reserve funds for, and disburse funds to, districts from the fund for administration pursuant to this section and Section 44299.1.

(d) The state board shall develop guidelines for a district to follow in applying for the reservation of funds, in accordance with this chapter. It is the intent of the Legislature that district administration of any reserved funds be in accordance with the project selection criteria specified in Sections 44281, 44282, and 44283 and all other provisions of this chapter. The guidelines shall be established and published by the state board as soon as practicable, but not later than January 1, 2000.

(e) Funds shall be reserved by the state board for administration by a district that adopts an eligible program pursuant to this chapter and offers matching funds at a ratio of one dollar (\$1) of matching funds committed by the district or the Mobile Source Air Pollution Reduction Review Committee for every two dollars (\$2) committed from the fund. Funds available to the Mobile Source Air Pollution Reduction Review Committee may be counted as matching funds for projects in the South Coast Air Basin only if the committee approves the use of these funds for matching purposes. Matching funds may be any funds under the district's budget authority that are committed to be expended in accordance with the program. Funds committed by a port authority or a local government, in cooperation with a district, to be expended in accordance with the program may also be counted as district matching funds. Matching funds provided by a port authority or a local government may not exceed 30 percent of the total required matching funds in any district that applies for more than three hundred thousand dollars (\$300,000) of the state board funds. Only a district, or a port authority or a local government teamed with a district, may provide matching funds.

(f) The state board may adjust the ratio of matching funds described in subdivision (e), if it determines that an adjustment is necessary in order to maximize the use of, or the air quality benefits provided by, the program, based on a consideration of the financial resources of the district.

(g) Notwithstanding subdivision (e), a district need not provide matching funds for state board funds allocated to the district for program outreach activities pursuant to paragraph (4) of subdivision (a) of Section 44299.1.



(h) A district may include within its matching funds a reasonable estimate of direct or in-kind costs for assistance in providing program outreach and application evaluation. In-kind and direct matching funds shall not exceed 15 percent of the total matching funds offered by a district. A district may also include within its matching funds any money spent on or after February 25, 1999, that would have qualified as matching funds but were not previously claimed as matching funds.

(i) A district desiring a reservation of funds shall apply to the state board following the application guidelines established pursuant to this section. The state board shall approve or disapprove a district application not later than 60 days after receipt. Upon approval of any district application, the state board shall simultaneously approve a reservation of funding for that district to administer. Reserved funds shall be disbursed to the district so that funding of a district-approved project is not impeded.

(j) Notwithstanding any other provision of this chapter, districts and the Mobile Source Air Pollution Reduction Review Committee shall not use funds collected pursuant to Section 41081 or Chapter 7 (commencing with Section 44220), or pursuant to Section 9250.11 of the Vehicle Code, as matching funds to fund a project with stationary or portable engines, locomotives, or marine vessels.

(k) Any funds reserved for a district pursuant to this section are available to the district for a period of not more than two years from the time of reservation. Funds not expended by June 30 of the second calendar year following the date of the reservation shall revert back to the state board as of that June 30, and shall be deposited in the Covered Vehicle Account established pursuant to Section 44299. The funds may then be redirected based on applications to the fund. Regardless of any reversion of funds back to the state board, the district may continue to request other reservations of funds for local administration. Each reservation of funds shall be accounted for separately, and unused funds from each application shall revert back to the state board as specified in this subdivision.

(l) The state board shall specify a date each year when district applications are due. If the eligible applications received in any year oversubscribe the available funds, the state board shall reserve funds on an allocation basis, pursuant to subdivision (b) of Section 44299.1. The state board may accept a district application after the due date for a period of months specified by the state board. Funds may be reserved in response to those applications, in accordance with this chapter, out of funds remaining after the original reservation of funds for the year.

(m) Guidelines for a district application shall require information from an applicant district to the extent necessary to meet the requirements of this chapter, but shall otherwise minimize the information required of a district.

(n) A district application shall be reviewed by the state board immediately upon receipt. If the state board determines that an application is incomplete, the applicant shall be notified within 10 working days with an explanation of what is missing from the application. A completed application fulfilling the criteria shall be approved as soon as practicable, but not later than 60 working days after receipt.

(o) The commission, in consultation with the districts, shall establish project approval criteria and guidelines for infrastructure projects consistent with Section 44284 as soon as practicable, but not later than February 15, 2000. The commission shall make draft criteria and guidelines available to the public 45 days before final adoption, and shall hold at least one public meeting to consider public comments before final adoption.

(p) The commission, in consultation with the participating districts, may propose revisions to the criteria and guidelines established pursuant to subdivision (o) as necessary to improve the ability of the program to achieve its goals. A revision may be proposed at any time, or may be proposed in response to a finding made in the annual report on the program published by the state board pursuant to Section 44295. A proposed revision shall be made available to the public 45 days before final adoption of the revision and the commission shall hold at least one public meeting to consider public comments before final adoption of the revision.

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

